



## **Position Paper Changing Visa Regime for Humanitarian Workers**

### **Background**

International staff of international non-governmental organizations (INGOs) working in the occupied Palestinian territory (oPt) have, until now, been provided B1 visas by the Government of Israel in its role as the occupying power. A B1 visa is a work permit - usually multiple entry and issued for one year - that allows its holder to legally work in areas controlled by Israel, both in the occupied territory and in Israel proper.

The process for obtaining a B1 visa has more or less been clear and efficient, but not necessarily consistent over the years. In general, INGOs have registered with the Israeli Ministry of Social Affairs (MOSA). Upon INGO request, MOSA has issued a letter requesting a B1 visa for a particular staff member to the Israeli Ministry of Interior (MOI), resulting in the issuance of the B1 visa.

In autumn 2009, MOI changed the procedure for visa issuances. People going to MOI with the standard letter from MOSA were asked to pay a fee, and were given a receipt-like document. They were informed that a 'joint committee' would have to review their application for a visa. Many of these people are still waiting responses from MOI.

Since that time, Government of Israel has informed the UN Office for the Coordinator of Humanitarian Affairs (OCHA) that henceforth it will issue only B2 visas to employees of the INGOs, with the exception of 12 organizations who have a particular status. Please see a background paper developed by OCHA attached. MOI has now started to issue B2 visas to a number of staff for varying lengths of time (weeks, months, one year). In some cases these are multiple entry, but some are single entry.

A B2 visa is a visitor visa which has stamped clearly on it NOT PERMITTED TO WORK. Government of Israel has explained to OCHA that since humanitarian workers are working in Palestinian controlled areas, they don't need work permits for Israel.

### **Why is this a problem?**

1. Jerusalem is considered by Israel to be a sovereign part of Israel, while East Jerusalem is internationally recognised as occupied territory. Obviously, if the INGO community is not allowed to work in Israel, as indicated by the B2 visa, we cannot work on projects or programs, have offices, or attend meetings in Jerusalem. Effectively this means that no further support or services can be delivered to the Palestinian community of East Jerusalem.

2. What constitutes Israeli control? The INGO community is already facing enormous problems working in Area C due to Israeli restrictions. This regime of limitations is described and analyzed in a recent OCHA Special Focus report (<http://www.ochaopt.org/>). We are being told informally by Government of Israel officials that the B2 visitor visa lets us work in areas under Palestinian control. While part of the oPt, Area C, isn't under

Palestinian control either per the Oslo Accords (which place Area C under full Israeli control).

3. Acceptance of a B2 visitor visa for a person who intends to work places that person in a precarious legal position. Verbally, the INGO community is receiving widely divergent instruction from various Government of Israel personnel. As an example, one person was told that even though the visa says “not permitted to work”, s/he really could work in Jerusalem. Another was told by a different official that s/he isn’t allowed to even live in Jerusalem with a B2 visa. The policy leaves INGO staff significantly vulnerable to the whim and interpretation of border officials. The implications of this new visa for dependents of international NGO staff are as yet unclear, but may affect schooling of staff’s children and locations where staff and their families may reside.

4. The new visa regime exponentially increases the transactional costs of INGOs implementing donor programs. At this point, thousands of person days have been spent trying to identify, understand and respond to this issue. Some staff have been asked to leave. At least one staff member who was issued with the new B2 visa has been refused re-entry. People carrying the receipt-like document from MOI have had problems at checkpoints and borders. Work-related travel (including to Gaza) is being deferred by people who are now out of visa status after months of waiting for a visa to be issued.

5. Ultimately, the new policy will impinge the INGO community’s ability to recruit excellent international staff, particularly more senior staff with families. If we are unable to tell professionals that we can offer them a legal work status, they will opt to work somewhere else, degrading our ability to compete for top candidates. Obviously, for people with dependents, the oPt will be a very unattractive posting because they will be here ‘illegally’ and consequently insecure. Most international humanitarian staff, whilst accepting of working in emergency situations do at least require the security of not losing our livelihoods over night or a deportation on our record.

6. With nothing in writing, international NGO staff are increasingly vulnerable to arbitrary decision-making ranging from their entry to Israel and the oPt to the location of their programming.

#### **AIDA’s request**

The donor and diplomatic community remind the Government of Israel that:

1. it has legal obligations to facilitate humanitarian response in the areas it occupies, including to ensure free and unfettered humanitarian access.<sup>1</sup>

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<sup>1</sup> Under article 55 of the Fourth Geneva Convention, Israel, the occupying power is under the duty of ensuring the food and the medical supplies of the occupied population and it should bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate. The article clearly states the definite obligation of the Occupying Power to utilise all the resources at its disposal to maintain at a reasonable level the material conditions under which the population of the occupied territory lives. Israel, in its 42-year long occupation has failed to do and this obligation has been undertaken by international agencies devoted to humanitarian assistance of the occupied population. Article 55 is to be read in conjunction with Article 59 of the same convention, in all cases where an occupied territory is inadequately supplied the Occupying Power is bound to accept relief supplies destined for the population and must "facilitate" them by all the means at its disposal. The occupation authorities must therefore co-

2. it should ensure international INGO staff are provided with visas that clearly allow them to work and guarantee their unfettered access and movement within the entire oPt, as well as protect their ability to enter, exit and operate in Israel as required.
3. it should provide guarantees, in writing, that any new measures will comply with its obligations to provide unfettered access.

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operate wholeheartedly in the rapid and scrupulous execution of these schemes. The current visa situation of humanitarian agencies staff members is affecting the unimpeded delivery of essential services that these organizations have undertaken to provide due to the failure of the Occupying Power to do respect its obligations under the Geneva Conventions. It is to be noted that these provisions also include both schemes of assistance to the population as a whole and those intended for the population in certain localities only, or for particular classes of the population, such as women and children throughout the territory.

The provisions regarding the delivery of humanitarian assistance are recognized as norms of customary international law. The ICRC in its authoritative study of March 2005 ([http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/p0860/\\$File/ICRC\\_002\\_0860.PDF](http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/p0860/$File/ICRC_002_0860.PDF)) has listed the following as the applicable rules to the subject:

Rule 55. The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control. [IAC/NIAC]

Rule 56. The parties to the conflict must ensure the freedom of movement of authorized humanitarian relief personnel essential to the exercise of their functions. Only in case of **imperative military necessity** may their movements be temporarily restricted.